

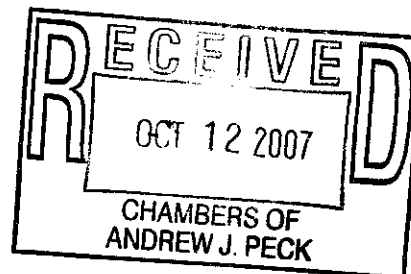
October 12, 2007

MEMO ENDORSED

150 YEARS OF LOOKING AHEAD
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VIA FACSIMILE
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Magistrate Andrew J. Peck
United States Magistrate Judge
United States District Court
Southern District of New York
U.S. Courthouse
500 Pearl Street
Room 1370
New York, New York 10007-1312



Re: **Becker v. Eber Bros. Wine & Liquor Corp., et al.**
07 CIV 4022 (RMB)

Dear Judge Peck:

We represent defendants Eber Bros. Wine & Liquor Corp. and Eber-NDC, LLC (collectively "Eber") in this matter. The Court's scheduling order requires all discovery to be completed by Monday, October 15, 2007. To date, both plaintiff and current and former representatives of Eber have been deposed.

Defendants attempted to personally serve a non-party witness subpoena upon plaintiff's current employer, Royal Wine Corp. ("Royal Wine") on October 3, 2007 to appear for a deposition scheduled for October 15, 2007. Unfortunately, Royal Wine was closed from at least October 3, 2007 through October 9, 2007 for the Jewish Holidays. It is my understanding that the process server left a copy of the subpoena at the premises of Royal Wine. On October 9, 2007, Royal Wine was personally served with the subpoena. A few moments ago I received a call from Royal Wine's counsel indicating that both he and a representative from Royal Wine are unavailable to appear at the deposition on October 15, 2007, but would be available and willing to attend a deposition within the next two weeks.

Based on the foregoing, it is respectfully requested this Court allow defendants to conduct the deposition of a Royal Wine representative by October 26, 2007. This accommodation will not impact the dispositive motion schedule set by the Court. Moreover, we believe it will inform the parties' respective views on potentially resolving this matter. Mr. Pollack has advised that he will not consent to our request.

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We are available to conference this matter telephonically at the Court's convenience. We appreciate the Court's consideration of this request.

Respectfully,

Melanie L. Sarkis

MLS:mmd

cc: Jonathan S. Pollack, Esq. (by telefax – 212-889-0279)
Franklyn H. Snitow, Esq., Counsel for Royal Wine, Corp. (by telefax – 212-317-1308)

MEMO ENDORSED 10/18/07

Answering requested to 10/24 sorry per by
Royal Wine Corp. As an to order that
don't expect it will be available
for 10/26 submitting a paper then
any other. All other motions remain
undecided.

SO ORDERED:

Hon. Andrew Jay Beck
United States Magistrate Judge

cc: Mr. Pollack
Mr. Snitow

BY FAX

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bc: Paul J. Yesawich, III, Esq.
Patrick J. Dalton, Esq.
Gregory J. McDonald, Esq.
Mr. Lester Eber

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
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Dated: October 15, 2007

Total Number of Pages: 4

TO	FAX NUMBER
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Gregory J. McDonald, Esq.	585-419-8813
Jonathan S. Pollack, Esq.	212-889-0279

TRANSCRIPTION:

MEMO ENDORSED 10/15/07

Discovery extended to 10/24 solely for the Royal Wine deposition. Defendants are to order that transcript expedited so it will be available for 10/26 settlement conf. with Judge Berman and any SJ motion. All other deadlines remain unchanged.

Copy to: Judge Richard M. Berman